

AMENDED IN SENATE AUGUST 24, 2006

AMENDED IN SENATE JULY 12, 2005

AMENDED IN SENATE JUNE 27, 2005

AMENDED IN ASSEMBLY APRIL 26, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1458

Introduced by Assembly Member De La Torre

(Coauthors: ~~Senators Alarcon, Bowen, Escutia, Kehoe, and Murray~~)

February 22, 2005

~~An act to amend Section 280.5 of the Public Utilities Code, relating to telecommunications. An act to amend Section 20047.5 of, and to add Sections 20037.11 and 20037.12 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1458, as amended, De La Torre. ~~Telecommunications: lease of state property for wireless facilities: Digital Divide Account in the California Teleconnect Fund Administrative Committee Fund. State employees: memoranda of understanding: State Bargaining Units 10 and 18.~~

(1) Under existing law, a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions that require the expenditure of funds of the memoranda of understanding entered into between the state employer and State Bargaining Units 10 and 18, and would provide that these provisions will become effective even if these provisions are approved by the Legislature in legislation other than the annual Budget Act.

This bill would further provide that provisions of the memoranda of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would authorize the state employer and the affected employee organization to reopen negotiations on all or part of the memoranda if funds for those provisions are not specifically appropriated by the Legislature.

(2) The Public Employees' Retirement Law provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Existing law defines final compensation variously for different member classifications and bargaining units and, in this regard, defines final compensation for a state member for the purpose of calculating retirement benefits as the highest annual average compensation earnable by the member during a designated 12-month period.

This bill would provide that final compensation for a person who becomes a state member, as specified, on or after January 1, 2007, and who is represented by State Bargaining Unit 10 or 18 means the highest annual average compensation earnable by the member during a designated 36-month period.

(3) The Public Employees' Retirement Law prescribes increased death or disability benefits to state miscellaneous members employed by the State Department of Developmental Services at the Porterville Developmental Center whose death or disability arises out of specified circumstances.

This bill would extend those benefits to state miscellaneous members employed by the State Department of Developmental Services at Canyon Springs Community Facility and Sierra Vista Community Facility, as specified.

(4) This bill would also appropriate \$23,469,000 from the General Fund and other unallocated funds for expenditure for the 2006–07 fiscal year for state employee compensation in augmentation of the Budget Act of 2006, as specified.

(5) *This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law requires the Director of General Services, to compile and maintain an inventory of state-owned real property, excluding certain property, that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities, and to provide a requesting party, upon payment of any applicable fee, with a copy of the inventory. Existing law authorizes the director to negotiate and enter into an agreement for the lease of certain department-managed and state-owned real property to any provider of wireless telecommunications services for location of its facilities, subject to specified conditions.~~

~~Existing law creates the Digital Divide Account within the California Teleconnect Fund Administrative Committee Fund in the State Treasury. Existing law requires that 15% of the revenues from fees collected from the lease of state-owned real property to the providers of wireless telecommunication services pursuant to the above-described provisions, except for revenues from fees collected from a lease agreement for access to Department of Transportation property or a lease agreement existing prior to January 1, 2004, be deposited in the Digital Divide Account, to be available, upon appropriation by the Legislature, to finance digital divide projects through the Digital Divide Grant Program.~~

~~This bill would, for purposes of those provisions, deem the renewal of an existing lease agreement to be a new lease subject to the 15% diversion to the account.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares that the*
2 *purpose of this act is to approve agreements pursuant to Section*
3 *3517 of the Government Code entered into by the state employer*
4 *and State Bargaining Unit 10, California Association of*
5 *Professional Scientists (CAPS), on August 18, 2006, and State*
6 *Bargaining Unit 18, California Association of Psychiatric*
7 *Technicians (CAPT), on August 18, 2006, that require the*
8 *expenditure of funds.*

1 *SEC. 2. The provisions of the memoranda of understanding*
2 *prepared pursuant to Section 3517.5 of the Government Code*
3 *and entered into by the state employer and the following*
4 *employee organizations, and that require the expenditure of*
5 *funds, are hereby approved for the purposes of Section 3517.6 of*
6 *the Government Code:*

7 *(a) State Bargaining Unit 10, California Association of*
8 *Professional Scientists.*

9 *(b) State Bargaining Unit 18, California Association of*
10 *Psychiatric Technicians.*

11 *SEC. 3. The provisions of the memoranda of understanding*
12 *approved by Section 2 of this act that are scheduled to take effect*
13 *on or after July 1, 2006, and that require the expenditure of*
14 *funds, shall not take effect unless funds for these provisions are*
15 *specifically appropriated by the Legislature. If the Legislature*
16 *does not approve or fully fund any provision of a memorandum*
17 *of understanding that requires the expenditure of funds, either*
18 *party may reopen negotiations on all or part of that*
19 *memorandum of understanding.*

20 *SEC. 4. Notwithstanding Section 3517.6 of the Government*
21 *Code, the provisions of those memoranda of understanding*
22 *included in Section 2 that require the expenditure of funds shall*
23 *become effective even if the provisions of the memoranda of*
24 *understanding are approved by the Legislature in legislation*
25 *other than the annual Budget Act.*

26 *SEC. 5. Section 20037.11 is added to the Government Code,*
27 *to read:*

28 20037.11. *(a) Notwithstanding Sections 20035 and 20037,*
29 *final compensation for a person who becomes a state member of*
30 *the system on or after January 1, 2007, and is represented by*
31 *State Bargaining Unit 10, means the highest average annual*
32 *compensation earnable by the member during the consecutive*
33 *36-month period immediately preceding the effective date of his*
34 *or her retirement, or the date of his or her last separation from*
35 *state service if earlier, or during any other period of 36*
36 *consecutive months during his or her state membership that the*
37 *member designates on the application for retirement.*

38 *(b) This section applies to service credit accrued while a*
39 *member of State Bargaining Unit 10.*

40 *(c) This section does not apply to:*

1 (1) *Former state employees previously employed before*
2 *January 1, 2007, who return to state employment on or after*
3 *January 1, 2007.*

4 (2) *State employees hired prior to January 1, 2007, who were*
5 *subject to Section 20281.5 during the first 24 months of state*
6 *employment.*

7 (3) *State employees hired prior to January 1, 2007, who*
8 *become subject to representation by State Bargaining Unit 10 on*
9 *or after January 1, 2007.*

10 (4) *State employees on an approved leave of absence*
11 *employed before January 1, 2007, who return to active*
12 *employment on or after January 1, 2007.*

13 SEC. 6. *Section 20037.12 is added to the Government Code,*
14 *to read:*

15 20037.12. (a) *Notwithstanding Sections 20035 and 20037,*
16 *final compensation for a person who becomes a state member of*
17 *the system on or after January 1, 2007, and is represented by*
18 *State Bargaining Unit 18, means the highest average annual*
19 *compensation earnable by the member during the consecutive*
20 *36-month period immediately preceding the effective date of his*
21 *or her retirement, or the date of his or her last separation from*
22 *state service if earlier, or during any other period of 36*
23 *consecutive months during his or her state membership that the*
24 *member designates on the application for retirement.*

25 (b) *This section applies to service credit accrued while a*
26 *member of State Bargaining Unit 18.*

27 (c) *This section does not apply to:*

28 (1) *Former state employees previously employed before*
29 *January 1, 2007, who return to state employment on or after*
30 *January 1, 2007.*

31 (2) *State employees hired prior to January 1, 2007, who were*
32 *subject to Section 20281.5 during the first 24 months of state*
33 *employment.*

34 (3) *State employees hired prior to January 1, 2007, who*
35 *become subject to representation by State Bargaining Unit 18 on*
36 *or after January 1, 2007.*

37 (4) *State employees on an approved leave of absence*
38 *employed before January 1, 2007, who return to active*
39 *employment on or after January 1, 2007.*

1 *SEC. 7. Section 20047.5 of the Government Code is amended*
2 *to read:*

3 20047.5. “Industrial,” with respect to state miscellaneous
4 members, means death or disability on or after January 1, 2002,
5 *or the date agreed to in the memorandum of understanding*
6 *between the state employer and the recognized employee*
7 *organization*, resulting from an injury that is a direct
8 consequence of a violent act perpetrated on his or her person by a
9 patient or client of the State Department of Developmental
10 Services, at Porterville Developmental Center, *Canyon Springs*
11 *Community Facility*, or *Sierra Vista Community Facility*, if both
12 of the following apply:

13 (a) The member either (1) was performing his or her duties
14 within a treatment ward at the time of the injury, or (2) was not
15 within a treatment ward but was acting within the scope of his or
16 her employment at the hospital and is regularly and substantially
17 as part of his or her duties in contact with the patients or clients.

18 (b) The member, at the time of injury, was either (1) employed
19 in a state bargaining unit for which a memorandum of
20 understanding has been agreed to by the state employer and the
21 recognized employee organization to become subject to this
22 section, (2) excluded from the definition of “state employee” in
23 subdivision (c) of Section 3513, or (3) a non-elected officer or
24 employee of the executive branch of government who was not a
25 member of the civil service.

26 *SEC. 8. The sum of twenty-three million four hundred*
27 *sixty-nine thousand dollars (\$23,469,000) is hereby appropriated*
28 *for expenditure in the 2006–07 fiscal year in augmentation of,*
29 *and for the purpose of state employee compensation as provided*
30 *in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of*
31 *Section 2.00 of the Budget Act of 2006 in accordance to the*
32 *following schedule:*

33 (a) *Thirteen million nine hundred seventy thousand dollars*
34 *(\$13,970,000) from the General Fund in augmentation of Item*
35 *9800-001-0001.*

36 (b) *Six million seventy-nine thousand dollars (\$6,079,000)*
37 *from unallocated special funds in augmentation of Item*
38 *9800-001-0494.*

1 (c) Three million four hundred twenty thousand dollars
2 (\$3,420,000) from other unallocated nongovernmental cost funds
3 in augmentation of Item 9800-001-0988.

4 SEC. 9. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety
6 within the meaning of Article IV of the Constitution and shall go
7 into immediate effect. The facts constituting the necessity are:

8 In order for the provisions of this act to be applicable as soon
9 as possible in the 2006–07 fiscal year, and thereby facilitate the
10 orderly administration of state government at the earliest
11 possible time, it is necessary that this act take effect immediately.

12 SECTION 1. ~~Section 280.5 of the Public Utilities Code is~~
13 ~~amended to read:~~

14 280.5. ~~(a) Of the revenues from fees collected pursuant to~~
15 ~~Section 14666.8 of the Government Code after the operative date~~
16 ~~of this section, except for revenues from fees from a lease~~
17 ~~agreement for access to Department of Transportation property~~
18 ~~or a lease agreement existing before the operative date of this~~
19 ~~section, 15 percent shall be available, upon appropriation by the~~
20 ~~Legislature, for the purpose of addressing the state's digital~~
21 ~~divide.~~

22 ~~(b) Revenues described in subdivision (a) shall be deposited in~~
23 ~~the Digital Divide Account, which is hereby established in the~~
24 ~~California Teleconnect Fund Administrative Committee Fund~~
25 ~~established pursuant to Section 270, to be used only for digital~~
26 ~~divide pilot projects. Not more than 5 percent of the revenues~~
27 ~~described in subdivision (a), may be used to pay the costs~~
28 ~~incurred in connection with the administration of digital divide~~
29 ~~pilot projects by the commission.~~

30 ~~(c) (1) The Digital Divide Grant Program is hereby~~
31 ~~established subject to the availability of funding pursuant to this~~
32 ~~section. The commission may not implement the grant program~~
33 ~~until the commission projects that at least five hundred thousand~~
34 ~~dollars (\$500,000) will be available in the Digital Divide~~
35 ~~Account during the calendar year following implementation,~~
36 ~~based on money collected pursuant to Section 14666.8 of the~~
37 ~~Government Code.~~

38 ~~(2) The commission shall provide grants pursuant to this~~
39 ~~subdivision on a competitive basis subject to criteria to be~~
40 ~~established by the commission after consultation with persons~~

1 knowledgeable in community technology services. Grants shall
2 be awarded in a manner that disburses the funds widely,
3 including to urban and rural areas, and to community-based
4 nonprofit organizations that are exempt from taxation under
5 Section 501(c)(3) of the Internal Revenue Code for the purpose
6 of funding community technology programs.

7 (3) Recipients of grants pursuant to this subdivision shall
8 report to the commission annually on the effectiveness of the
9 grant program.

10 (4) The commission shall report to the Legislature and the
11 Governor annually on the effectiveness of the program
12 administered pursuant to this subdivision.

13 (d) For purposes of this section, “community technology
14 programs” means a program that is engaged in diffusing
15 technology in local communities and training local communities
16 in the use of technology, especially local communities that
17 otherwise would have no access or limited access to the Internet
18 and other technologies.

19 (e) For purposes of this section, “digital divide projects”
20 means community technology programs involved in activities
21 that include, but are not limited to, the following:

22 (1) Providing open access to and opportunities for training in
23 technology.

24 (2) Developing online content relevant to the interests and
25 wants of the local community.

26 (3) Preparing youth for opportunities in the new economy
27 through employment training and skills as well as access to
28 educational assistance beyond the regular schoolday.

29 (4) Using technology for access to e-government services and
30 online educational curriculum.

31 (f) For purposes of this section, the renewal of an existing
32 lease agreement is deemed to be a new lease subject to the
33 15-percent diversion to the Digital Divide Account.